

REMARKS

This application is amended in a manner to place it in condition for allowance at the time of the next Official Action.

Status of the Claims

Claims 1-8 are amended. These amendments are formal in nature. For example, the second ranges recited in claim 1.i), 1. ii), 2. i), and 2. ii) have been deleted and are now separately recited in new claims 18-21, respectively. Thus, new claims 18-21 are directed to the elected invention.

Claims 1-8 and 18-21 remain in this application.

Claim Rejections-35 USC §112

The claims were rejected under 35 U.S.C. §112, first paragraph, for not complying with the enablement requirement as there was no information regarding the claimed bacterial strains. This rejection is respectfully traversed for the reasons below.

Included with this amendment in the Appendix is a Declaration of Availability and Maintenance of Microorganism with a copy of the deposit receipt and viability statement for each of the three strains: MA18/5M, I-2924 and DSM 9916.

Therefore, withdrawal of the rejection is respectfully requested.

Claims 4-8 were rejected under 35 U.S.C. §112, second paragraph, for being indefinite. This rejection is respectfully traversed for the reasons below.

All claims have been amended to recite the features in a manner consistent with U.S. practice, e.g., the broad features of claims 1 and 2 are no recited in claims 18-21. Moreover, the dependency of claims 5 and 6 has been changed from claim 4 to claim 1.

Therefore, the claims are believed to be definite, and withdrawal of the rejection is respectfully requested.

Claim Rejections-35 USC §102

Claims 1-8 were rejected under 35 U.S.C. §102(b) and (e) as being anticipated by CARBO et al. ("CARBO"), LIU ET AL. ("LIU"), JOYEUS et al. ("JOYEUS"), PRAHL U.S. 7,112,346 (PRAHL '346) or HENICK-KLING et al. U.S. 6,284,518 (HENICK-KLING) or PRAHL U.S. 5,077,060 ("PRAHL '060"). This rejection is respectfully traversed for the reasons below.

According to the claimed invention, the lactic bacterial strains belonging to the genus *Lactobacillus* or *Pediococcus* are selected for their capability to convert malic acid into lactic acid in a wine which has an alcohol degree of 10% or more and a pH of 3.6 or more.

With respect to CABO, the conditions used for converting malic acid by the strains are different than those

claimed. For example, they were evaluated at a concentration different than that claimed. Thus, the results do not suggest the same strains as those claimed, and CABO does not anticipate the claimed invention.

LIU also fails to anticipate the claimed invention, as the strains tested were not evaluated under the same conditions as claimed. That is, the strains were evaluated with synthetic material, not wine. Thus, there is nothing to suggest that the strains disclosed by LIU would have the same properties as those claimed.

JOYEUX also evaluates strains with material dissimilar to wine and at different concentrations than those claimed. . Thus, there is nothing to suggest that the strains disclosed by JOYEUX would have the same properties as those claimed, and JOYEUX does not anticipate.

PRAHL '346 fails to anticipate the claimed invention, as this document discloses *Ln.oenos*, not the claimed bacterial strains.

PRAHL '060 also fails to anticipate the claimed invention, as this document discloses that the bacterial strain is added to a must or fruit juice, and not in wine with an alcohol content of 10% or more. As the conditions for converting malic acid are different, there is no evidence to suggest that the properties of the disclosed strains would be the same as those claimed.

Likewise, HENICK-KLING fails to anticipate the claimed bacterial strains, as the strains disclosed in this document are used with synthetic media and not in wine. Thus, there is no evidence to suggest that the properties of the disclosed strains would be the same as those claimed.

Therefore, none of the cited documents discloses or even suggests the claimed invention, as none of these documents evaluates the bacterial strains in the same manner as recited in the present claims, and withdrawal of the rejection is respectfully requested.

Conclusion

In view of the amendment to the claims and the foregoing remarks, this application is in condition for allowance at the time of the next Official Action. Allowance and passage to issue on that basis is respectfully requested.

Should there be any matters that need to be resolved in the present application, the Examiner is respectfully requested to contact the undersigned at the telephone number listed below.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to our credit card which is being paid online simultaneously herewith for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

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